

## Bureau of Indian Affairs, Interior

## § 116.11

appraisers will be made for the purpose of determining that the persons selected are both competent and disinterested.

### § 116.6 Aiding Indians in formulating trust agreements.

In the formulation of the trust agreement and the provisions thereof the superintendent for the Five Civilized Tribes Agency and the other employees under his supervision will upon request assist the Indian to the fullest possible extent to the end that he may understand fully the meaning and the intent of the agreement and make the most satisfactory provision for the formation and consummation of the trust agreement.

### § 116.7 Trust duration.

Under the terms of the statute no trust shall be established to continue for a period of more than 21 years after the death of the last surviving beneficiary named in the trust agreement.

### § 116.8 Trustee's security.

To secure the faithful performance of the duties imposed by the trust agreement the trustee shall, as required by section 7 of the act (47 Stat. 778), deposit securities of the United States or furnish an acceptable corporate surety bond in an amount equal to the value of the trust as fixed and determined by the Secretary of the Interior. Appraisers will be appointed by the Secretary for the purpose of fixing the value of the trust and of revising such value from time to time as the judgment of the Secretary may dictate. Additional or substitute security may be required at any time when deemed necessary for the protection of the trust estate and the interest of the Indians. Trustees pledging United States bonds or notes as security shall execute on forms<sup>1</sup> prescribed by the Secretary an appropriate resolution and power of attorney authorizing the sale, assignment or transfer of the collateral. Only those corporate sureties who hold certificates of authority from the Secretary of the Treasury to write bonds on

which the United States is obligee are acceptable as sureties. The cost to the trustee, if any, of furnishing the required bond, will be regarded as a necessary part of the cost of administering the trust and as such deductible from the gross income accruing therefrom.

### § 116.9 Trustee's compensation.

As compensation for administering the trust the trustee will be permitted to receive annually not to exceed 5 percent of the gross annual income from such trust estate, and as further compensation will also be permitted to receive not to exceed an amount equal to 1 percent of the corpus of the trust estate, to be paid out of the income first accruing therefrom, and not to exceed an amount equal to 2 percent of the corpus of the estate at the time of final distribution based upon the last valuation made by the Secretary of the Interior prior to such distribution. By final distribution is meant any distribution to a beneficiary of any part of the corpus of the trust estate at any time under the terms of the trust. All fees are to be based on the size of the trust and the nature of the duties to be performed thereunder. The foregoing percentage of fees are maximum and alternative, that is, within such maximum limitations any one or more of said fees may or may not be allowed within the discretion of the Secretary of the Interior.

### § 116.10 Necessary forms.

In addition to the form of application by the Indians under the act of January 27, 1933 (47 Stat. 777), there are skeleton forms of trust agreement and bond which forms are subject to such changes as may be necessary to meet the requirements of each particular case.

### § 116.11 Limit restricted property in trust.

Not more than three million dollars aggregate value of restricted Indian property shall be placed in trust pursuant to the regulations in this part with any one trustee, trust company or other banking institution authorized by law to act as a fiduciary.

<sup>1</sup>Forms may be obtained from the superintendent of the Five Civilized Tribes Agency, Muskogee, Oklahoma.

## § 116.12

## 25 CFR Ch. I (4–1–02 Edition)

### § 116.12 Amendments.

The regulations in this part may be changed, amended, added to, and any part thereof eliminated at any time by the Secretary of the Interior.

### PART 117—DEPOSIT AND EXPENDITURE OF INDIVIDUAL FUNDS OF MEMBERS OF THE OSAGE TRIBE OF INDIANS WHO DO NOT HAVE CERTIFICATES OF COMPETENCY

#### Sec.

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- 117.26 Expenses incurred pending qualification of an executor or administrator.
- 117.27 Custody of funds pending administration of estates.
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- 117.32 Funds of Indians of other tribes.
- 117.33 Signature of illiterates.
- 117.34 Financial status of Indians confidential.
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AUTHORITY: 5 U.S.C. 301.

SOURCE: 22 FR 10554, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

### § 117.1 Definitions.

When used in the regulations in this part the following words or terms shall have the meaning shown below:

(a) *Secretary* means the Secretary of the Interior or his authorized representative.

(b) *Commissioner* means the Commissioner of Indian Affairs or his authorized representative.

(c) *Superintendent* means the superintendent of the Osage Agency.

(d) *Quarterly payment* means the payment of not to exceed \$1,000 which is made each fiscal quarter to or on behalf of an adult Indian, from the following sources:

(1) The pro rata distribution of tribal mineral income and other tribal revenues.

(2) The interest on segregated trust funds.

(3) Surplus funds in addition to the income from the foregoing sources in the amount necessary to aggregate \$1,000 when the income from those sources is less than \$1,000 and the Indian has a balance of accumulated surplus funds in excess of \$10,000.

(e) *Surplus funds* means all those moneys and securities readily convertible into cash, except allowance funds and segregated trust funds, which are held to the credit of an Indian at the Osage Agency and which may be disbursed, expended or invested only upon authorization by the Secretary. The term includes:

(1) That portion of the quarterly distribution of tribal income and interest on segregated trust funds, in excess of \$1,000, belonging to an adult Indian.

(2) The proceeds, including appreciation, of the sale or conversion of restricted real or personal property (other than partition sales).

(3) Payments made by insurance companies or others for loss or damage to restricted real or personal property.

(4) All moneys and securities, other than segregated trust funds, to the credit of an Indian who is less than 21 years of age (except the income from restricted lands payable as provided by § 117.3).